

## Classification Review of Charged Documents

### Prior Classification Reviews

1. What does a classification review entail?
2. How many classification reviews did your agency do in:
  - a. 2010?
  - b. 2011?
  - c. 2012? (not including the classification review in this case)
3. How many documents were reviewed in each case?
4. How many people worked on each review?
5. When was each review begun? Completed?
6. How many man hours were spent on each review?

### Communication Between OCA and Trial Counsel

7. Did [your agency] personally speak to any of the trial counsel in this case?
8. If yes, how many times?
9. If yes, when?
10. Did [your agency] personally have any written communications with the trial counsel in this case?
11. If yes, how many times?
12. If yes, when? Please provide documentation.

### Initial Communications

13. When did trial counsel in this case first approach [ ] your organization about a classification review in the case of *United States v. Manning*?
14. How did trial counsel first approach [your agency]? (e.g. email, phone, meeting)
15. What did the trial counsel ask [your agency] to do or tell you at this first encounter?
16. When did trial counsel first ask [your agency] to complete a classification review?

### First Request for Classification Review

17. How did trial counsel first ask [your agency] to complete a classification review? If a written request, please provide documentation.
18. What did trial counsel ask [your agency] to do?
19. Concerning this first request, did trial counsel give [your agency] a suspense date for completing the classification review process?
20. If yes, what was that date?
21. If no,
  - a. Did [your agency] request a suspense date?
  - b. Did [your agency] provide an approximate time line on how long [your agency] thought the process would take?
  - c. Did trial counsel ask for an approximate time line on how long [your agency] thought the process would take?
  - d. Was there any discussion of timing? If yes, what did it entail?
  - e. Did the trial counsel mention the issue of speedy trial? If so, how?
22. What was the date on which [your agency] began the process of completing a classification review?
23. What [was] [your agency] told by trial counsel about the role of the classification review in the legal proceedings?
24. Did trial counsel ever tell [your agency] to take [its] time with the classification review because they were not ready to proceed with the Article 32?

#### Legal Counsel for OCA

25. Was legal counsel for your Agency involved in any aspect of the classification review process?
26. If so,
  - a. Explain how.
  - b. Did legal counsel ever mention the issue of timing or speedy trial?

#### Logistics of Classification Review For Charged Documents

27. How many charged documents [was] [your agency] asked to review as part of the classification review process for *United States v. Manning*? (Include only those

documents that you reviewed and referenced in your final report; do not include any documents that you may have reviewed for other purposes).

28. Who specifically worked on the classification review? Please provide a list of names and their respective positions, and the time period that they were asked to work on the classification review.
29. How did [your agency] choose who would work on the classification review?
30. Did any of the people who [your agency] selected to work on the classification review need to get clearances to work on the review?
31. If so, how long did this take?
32. If [the OCA] delegated any part of the classification review to others, what did [the OCA] tell [its] delegates about the timing of the classification review and when it needed to be completed?
33. [Does the OCA] have any email or written documentation regarding the instructions [the OCA] gave to [its] delegates about the timing of the classification reviews? If yes, please provide.
34. Did [the] delegates provide [the OCA] with daily updates on their progress? If so, how did they provide these daily reports? If written, please provide documentation.
35. Did [the] delegates provide [the OCA] with weekly updates on their progress? If so, how did they provide these weekly reports? If written, please provide documentation.
36. Did [the] delegates provide [the OCA] with monthly updates on their progress? If so, how did they provide these monthly reports? If written, please provide documentation.
37. If [the OCA] delegated a portion of the review to others, list all the ways that [the OCA] kept [himself/herself] informed on what was being done for the classification review process.
38. What portion of each of the delegates' job was devoted to this classification review? (e.g. 30%, 50%). Please list for each person involved.
39. Did [the OCA or delegates] work on the classification review every day until the time the classification review was submitted to the trial counsel?
40. Did [the OCA or delegates] work on weekends? If so, which weekends?
41. Did [the OCA or delegates] work on holidays? If so, which holidays?

42. On average, how many hours per week in total did [the OCA or delegates] work on the classification review?
43. Do [the OCA or delegates] have timesheets for who worked on the classification reviews and for how long?
44. How many total hours did [the OCA or delegates] take to complete the classification review?
45. Specifically:
  - a. The OCA:
  - b. [ ] Delegates (specify by person):
46. Once you had completed your review, how long did it take [the OCA or delegates] to prepare the report for submission to trial counsel?

#### Trial Counsel Inquiries On Status of Classification Review for Charged Documents

47. Did trial counsel ask for updates on where [your agency] [was] in the process of completing the classification review? (Note: this question does not ask whether trial counsel made further requests, but rather whether they made status inquiries)
  - a. If so, how and when did they ask?
  - b. If in written form (e.g. email, letter, memo), please provide documentation.
48. Did trial counsel ever ask [your agency] how much longer the process would take?
  - a. If so, how and when did they ask?
  - b. If in written form (e.g. email, letter, memo), please provide documentation.
49. Did trial counsel ever ask [your agency] what specifically was taking so long?
  - a. If so, how and when did they ask?
  - b. If in written form (e.g. email, letter, memo), please provide documentation.
50. Did trial counsel ask how many people were working on the classification review?
  - a. If so, how and when did they ask?
  - b. If in written form (e.g. email, letter, memo), please provide documentation.
51. Did trial counsel ask how much time [your agency] [was] devoting to the classification review process?
  - a. If so, how and when did they ask?
  - b. If in written form (e.g. email, letter, memo), please provide documentation.

18 March 2011 Memo

52. On 18 March 2011, the [trial counsel] sent you a memorandum asking [your agency] to “finalize” your classification review. As of 18 March 2011, how long had [your agency] been working on your classification review?
53. If 18 March 2011 was the date [your agency] started your classification review, did [your agency] question the trial counsel why they were asking [your agency] to “finalize” your review? If so, how? If in writing, please provide documentation.
54. In the 18 March 2011 memorandum, the trial counsel provides [your agency] with a suspense date of 31 March 2011. Did [your agency] ever communicate with the trial counsel specifically about the suspense date?
55. If [your agency] did communicate with the trial counsel specifically about the suspense date, what did [your agency] say? What did the trial counsel say?
56. If [your agency] did communicate with the trial counsel specifically about the suspense date, how did this communication take place? If in writing, please provide documentation.
57. If [your agency] delegated some or part of the classification review, what did [your agency] tell your delegates about the 31 March 2011 suspense date?
58. Based on dates the trial counsel has provided, [your agency] did not meet the suspense date. Is this true?
59. Did [your agency] communicate a reason for not meeting the suspense date to trial counsel?
60. Did trial counsel ever contact [your agency] to ask why [your agency] did not meet the suspense date?

In trial counsel’s 18 March 2011 memorandum to [your agency], trial counsel writes the following:

“Under Article 10, UCMJ, when an accused is in pretrial confinement, the United States is required to use “reasonable diligence” to continue forward motion on resolving criminal cases. See 10 U.S.C. §810. The only remedy for an Article 10 violation is dismissal of

the charges with prejudice. Additionally, the United States must ensure it does not violate the accused's Sixth Amendment right to a speedy trial. See *Barker v. Wingo*, 407 U.S. 414 (1972). All existing and future delays by your department could severely hinder the prosecution.”

61. Did [your agency] read this at the time [your agency] received it?
62. What did [your agency] understand this to mean?
63. Did [your agency] communicate this specific portion of the memorandum to [its] delegates?
64. If so, what did [your agency] tell them?
65. Did [your agency] ever communicate with trial counsel specifically about this portion of the memorandum?
66. If so, what did the communication involve?
67. If so, how did the communication take place? If the communication was written, please provide documentation.

#### Subsequent Memorandums From Government

68. Other than the 18 March 2011 memorandum, did the trial counsel provide [your agency] with further memoranda asking [your agency] to complete the classification review?
69. If yes, please list the dates [your agency] received the follow-up memoranda.
70. What was [your agency's] view of why the trial counsel was sending [your agency] these further memoranda?
71. Was there a suspense date on the further memoranda? Please specify yes/no for each memorandum you received?
72. What was the suspense date for each memorandum?
73. Did [your agency] communicate the suspense dates to [its] delegates? If so, how? If in writing, please provide written documentation.
74. Did [your agency] meet the suspense dates? Explain for each subsequent memorandum.
75. If [your agency] did not meet the suspense date, did [your agency] communicate with the trial counsel about [your agency's] failure to meet the suspense dates?

- a. What did the communication entail?
  - b. Please provide documentary evidence if this communication was in writing.
76. Did these memoranda include reference to “Speedy Trial”?
77. If yes, did [your agency] communicate with the trial counsel specifically about the reference to speedy trial in the memoranda?

#### Convening Authority

78. [Was] [your agency] aware that the trial counsel was requesting delays in the proceedings based on the classification review process being incomplete?
79. Did [your agency] ever prepare a memo or any document for the trial counsel to provide to the Convening Authority explaining the progress made on the classification review? If so, please provide this document or memo.
80. Did [your agency] ever receive any communication from the Convening Authority about the classification review?

#### Completion of Classification Review

81. What was the date that [your agency] completed your classification review?
82. How many pages was [your agency's] review?
83. What was the date [your agency] began producing the written report?
84. What was the date [your agency] completed the written report?
85. What was the date that [your agency] provided your completed classification report to trial counsel?
86. After completing the report, did trial counsel require [your agency's] consent to disclose the classification review to the Defense?
87. If so, when did trial counsel request this consent? When was the consent provided?

#### Discovery of Classified Forensic Evidence and Other Classified Information

\* All of these questions pertain to discovery of classified forensic evidence and other classified information requested prior to the Article 32 hearing in December 2011

88. When was [your agency] asked to approve the disclosure of classified information to the defense? If multiple dates, provide each date.
89. How was [your agency] asked to review and approve the disclosure of classified forensic evidence and other classified information? If in writing, please provide documentation.
90. What specifically was [your agency] asked to do?
91. Did the OCA personally conduct the review of classified forensic evidence and other classified information for approval to disclose to the defense?
92. If not, who did [your agency] delegate the review to? Please provide names and position.
93. Was there a suspense date provided by trial counsel?
94. If yes, what was it?
95. If no, did you ask about the timing of discovery of classified forensic evidence and other classified information?
96. What was the date [your agency] started the approval process for discovery of classified information?
97. What was the date [your agency] completed the approval process for discovery of classified information?
98. If [the OCA] delegated any part of the task, list all the ways that [the OCA] monitored the progress of his/her delegates in their review of classified information for approval to disclose to the defense?
99. How many documents or pieces of digital evidence did [your agency] review and provide approval to disclose?
100. How many pages or gigabytes did these documents amount to?
101. How many total manpower hours did [your agency] spend on reviewing the computer forensics and other classified evidence for approval to disclose to the defense?
102. Did [your agency] prepare a report?
103. If so, what is the date of the report? When did [your agency] provide it to trial counsel?
104. If not, how did [your agency] communicate the decision to approve the disclosure of classified forensic evidence and other classified information to trial counsel?
105. On what day did [your agency] consent to disclosure of the computer forensic evidence and other classified information to the Defense?



106. What percentage of your agency's time (or the time of your delegates) was devoted to completing this task?
107. Did trial counsel inform you that your consent to disclose classified forensic evidence to the defense was necessary to complete prior to the Article 32 hearing?
108. What, if anything, did they tell you about why [your agency] was reviewing classified information in order to approve disclosure of that information to the defense?
109. Did trial counsel ever ask [your agency] for updates on the status of your review? If yes, please provide specific dates.

**Department of State Specific**

110. Did [the Department] have any involvement in selecting or opining on the charged documents?

All the following questions assume that the answer is "yes":

- a. What did the trial counsel ask [the Department] to do?
- b. When did trial counsel ask [the Department] to do this?
- c. Did trial counsel give [the Department] a suspense date?
- d. If not, did [the Department] ask for a suspense date?
- e. When did [the Department] complete whatever task the trial counsel asked [the Department] to do?
- f. How many total manpower hours were devoted to completing this task?

**Army G-2 Specific**

111. Did you have any involvement in selecting or opining on the charged documents?

All the following questions assume that the answer is "yes":

- a. What did the trial counsel ask [DA G2] to do?
- b. When did trial counsel ask [DA G2] to do this?
- c. Did trial counsel give [DA G2] a suspense date?
- d. If not, did [DA G2] ask for a suspense date?
- e. When did [DA G2] complete whatever task the trial counsel asked [DA G2] to do?

- f. How many total manpower hours were devoted to completing this task?